



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4836

Introduced 01/19/06, by Rep. David Reis

SYNOPSIS AS INTRODUCED:

35 ILCS 5/704

from Ch. 120, par. 7-704

35 ILCS 10/5-16 new

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that an applicant who has been awarded a Credit under the this Act may, in the applicant's sole discretion, opt to retain taxes withheld under the Illinois Income Tax Act in lieu of an income tax credit. Provides that the amount of withheld taxes retained by the applicant in a taxable year may not exceed the amount of the Credit awarded by the Department of Commerce and Economic Opportunity for that taxable year. Provides that each employee whose taxes were withheld by an employer who retains amounts under this subsection must receive credit for 100% of the taxes withheld from his or her pay. Requires the Department to report annually to the Governor and the General Assembly on the progress of the incentive payment program. Amends the Illinois Income Tax Act to make corresponding changes concerning tax withholding. Effective immediately.

LRB094 15999 BDD 51505 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning economic development.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 704 as follows:

6 (35 ILCS 5/704) (from Ch. 120, par. 7-704)

7 Sec. 704. Employer's Return and Payment of Tax Withheld.

8 (a) In general, every employer who deducts and withholds or
9 is required to deduct and withhold tax under this Act shall
10 make such payments and returns as hereinafter provided.

11 (b) Quarter Monthly Payments: Returns. Every employer who
12 deducts and withholds or is required to deduct and withhold tax
13 under this Act shall, on or before the third banking day
14 following the close of a quarter monthly period, pay to the
15 Department or to a depository designated by the Department,
16 pursuant to regulations prescribed by the Department, the taxes
17 so required to be deducted and withheld, whenever the aggregate
18 amount withheld by such employer (together with amounts
19 previously withheld and not paid to the Department) exceeds
20 \$1,000. For purposes of this Section, Saturdays, Sundays, legal
21 holidays and local bank holidays are not banking days. A
22 quarter monthly period, for purposes of this subsection, ends
23 on the 7th, 15th, 22nd and last day of each calendar month.
24 Every such employer shall for each calendar quarter, on or
25 before the last day of the first month following the close of
26 such quarter, and for the calendar year, on or before January
27 31 of the succeeding calendar year, make a return with respect
28 to such taxes in such form and manner as the Department may by
29 regulations prescribe, and pay to the Department or to a
30 depository designated by the Department all withheld taxes not
31 previously paid to the Department.

32 (c) Monthly Payments: Returns. Every employer required to

1 deduct and withhold tax under this Act shall, on or before the
2 15th day of the second and third months of each calendar
3 quarter, and on or before the last day of the month following
4 the last month of each such quarter, pay to the Department or
5 to a depository designated by the Department, pursuant to
6 regulations prescribed by the Department, the taxes so required
7 to be deducted and withheld, whenever the aggregate amount
8 withheld by such employer (together with amounts previously
9 withheld and not paid to the Department) exceeds \$500 but does
10 not exceed \$1,000. Every such employer shall for each calendar
11 quarter, on or before the last day of the first month following
12 the close of such quarter, and for the calendar year, on or
13 before January 31 of the succeeding calendar year, make a
14 return with respect to such taxes in such form and manner as
15 the Department may by regulations prescribe, and pay to the
16 Department or to a depository designated by the Department all
17 withheld taxes not previously paid to the Department.

18 (d) Annual Payments: Returns. Where the amount of
19 compensation paid by an employer is not sufficient to require
20 the withholding of tax from the compensation of any of its
21 employees (or where the aggregate amount withheld is less than
22 \$500), the Department may by regulation permit such employer to
23 file only an annual return and to pay the taxes required to be
24 deducted and withheld at the time of filing such annual return.

25 (e) Annual Return. The Department may, as it deems
26 appropriate, prescribe by regulation for the filing of annual
27 returns in lieu of quarterly returns described in subsections
28 (b) and (c).

29 (e-5) Annual Return and Payment. On and after January 1,
30 1998, notwithstanding subsections (b) through (d) of this
31 Section, every employer who deducts and withholds or is
32 required to deduct and withhold tax from a person engaged in
33 domestic service employment, as that term is defined in Section
34 3510 of the Internal Revenue Code, may comply with the
35 requirements of this Section by filing an annual return and
36 paying the taxes required to be deducted and withheld on or

1 before the 15th day of the fourth month following the close of
2 the employer's taxable year. The annual return may be submitted
3 with the employer's individual income tax return.

4 (f) Magnetic Media Filing. Forms W-2 that, pursuant to the
5 Internal Revenue Code and regulations promulgated thereunder,
6 are required to be submitted to the Internal Revenue Service on
7 magnetic media, must also be submitted to the Department on
8 magnetic media for Illinois purposes, if required by the
9 Department.

10 (g) EDGE Credit assistance. Every employer who deducts and
11 withholds or is required to deduct and withhold tax under this
12 Act who retains income tax withholdings under Section 5-16 of
13 the Economic Development for a Growing Economy Tax Credit Act
14 must make a return with respect to such taxes and retained
15 amounts in the form and manner that the Department, by rule,
16 requires and pay to the Department or to a depository
17 designated by the Department those withheld taxes not retained
18 by the taxpayer.

19 (Source: P.A. 90-374, eff. 8-14-97; 90-562, eff. 12-16-97.)

20 Section 10. The Economic Development for a Growing Economy
21 Tax Credit Act is amended by adding Section 5-16 as follows:

22 (35 ILCS 10/5-16 new)

23 Sec. 5-16. Optional retention income tax withholding.

24 (a) An applicant who has been awarded a Credit under this
25 this Act may, in the applicant's sole discretion, opt to retain
26 taxes withheld under Article 7 of the Illinois Income Tax Act
27 in lieu of an income tax credit. The amount of withheld taxes
28 retained by the applicant in a taxable year may not exceed the
29 amount of the Credit awarded by the Department for that taxable
30 year.

31 (b) Each employee whose taxes were withheld by an employer
32 who retains amounts under this subsection must receive credit
33 for 100% of the taxes withheld from his or her pay.

34 (c) The Department shall file annual reports with the

1 General Assembly and the Governor on or before January 1 each
2 year concerning the applicants' retention of withheld taxes
3 during the previous year and regarding the progress this
4 assistance has made in advancing economic development in
5 Illinois and its various regions.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.